

STATEMENT OF FACTS

Your affiant, Justin Smet, is a Special Agent assigned to the Federal Bureau of Investigation ("FBI") Los Angeles Field Office. In my duties as a Special Agent, I investigate violations of the laws of the United States, specifically investigations related to domestic and foreign terrorism. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the U.S. Congress convened at the U.S. Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the U.S. House of Representatives and the U.S. Senate were meeting in separate chambers of the U.S. Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the U.S. House of Representatives and U.S. Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the U.S. Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Photographs and videos of several of these persons were disseminated via social media and other open-source online platforms. As detailed below, these persons included two adult males, whom law enforcement has probable cause to believe are Alexis Ivan Bustos-Ocampo, a.k.a Alexis Ivan Bustos, (“A. BUSTOS”) and Bryan Emmanuel Bustos (“B. BUSTOS”).

On or about January 10, 2021, the FBI received an online tip regarding an individual, later identified as B. BUSTOS, who posted a picture on Instagram while inside the U.S. Capitol. An open-source search of Instagram identified one account with display name “Bryan Emmanuel Bustos” (Username @getXXXX¹). Further review of the public Instagram account identified an adult male, matching the physical appearance pictured below in Figure 1. Your affiant identified BRYAN EMMANUEL BUSTOS via California Department of Motor Vehicle (“DMV”) records. Additionally, your affiant reviewed B. BUSTOS’s DMV photograph and confirmed it matches the individual pictured below in Figure 1.



Figure 1

To confirm the above picture was taken inside the U.S. Capitol on January 6, 2021, your affiant reviewed video footage taken inside the U.S. Capitol. The picture below is a screenshot from U.S. Capitol security footage inside the Rotunda on January 6, 2021. As depicted below in Figure 2, highlighted in the red circle, your affiant identified the subject in the tipster’s photograph

¹ FBI is in possession of the full name but has anonymized it partially here due to the public nature of this filing.

(that is, B. BUSTOS). Further, highlighted in the yellow circle, your affiant identified an unidentified female that used a device, believed to be a cell phone, to capture the photograph.



Figure 2

Based on records obtained from Facebook, the FBI determined B. BUSTOS was associated with an Instagram account @getXXXX. The records also included several photographs and videos that confirmed B. BUSTOS and A. BUSTOS were in Washington D.C. and entered the Capitol grounds on January 6, 2021. One of these photographs included the same photograph the FBI received from the online tip referenced above. As pictured below in Figure 3, Instagram account @getXXXX shared an image of B. BUSTOS inside the Rotunda, which is the same image provided to the FBI depicted in Figure 1.

In one photograph associated with the above Instagram account, B. BUSTOS and A. BUSTOS appeared to be in the Washington D.C. area. As pictured below in Figure 4, the picture



Figure 3

shows A. BUSTOS (left) and B. BUSTOS (right) near the Washington Monument using a “Washington D.C.” photo filter. Further, the photograph was accompanied by a message sent by



Figure 4

Instagram account @getXXXX that stated, “Greetings from dc.”

During one video associated with the above Instagram account, B. BUSTOS appeared to film himself walking down a street in Washington D.C. alongside a crowd. The video captured B. BUSTOS, pictured in Figure 5, and A. BUSTOS, pictured in Figure 6.

During another video associated with the above Instagram account, B. BUSTOS appeared to film himself while spinning inside the Rotunda alongside other protesters. The video ended with a view of the ceiling inside the Rotunda. The video is summarized by screenshots below in Figures 7-9.



Figure 5



Figure 6



Figure 7

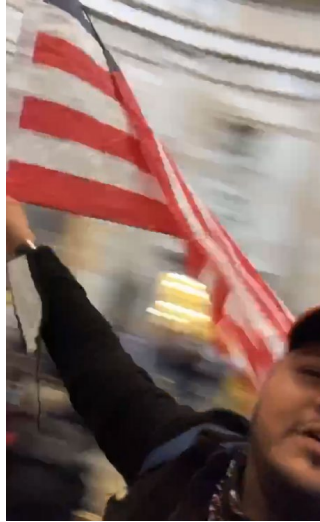


Figure 8



Figure 9

In another video, B. BUSTOS recorded himself and A. BUSTOS on the stairway near the U.S. Capitol grounds. As depicted below, screenshots of the video showed A. BUSTOS, pictured in Figure 10, and B. BUSTOS, pictured in Figure 11.



Figure 10



Figure 11

To confirm the above images are A. BUSTOS and B. BUSTOS, your affiant reviewed California DMV records for A. BUSTOS and B. BUSTOS. Your affiant reviewed A. BUSTOS' DMV photograph and confirmed it matched the individual pictured in Figures 4, 6, and 10. Further, your affiant reviewed B. BUSTOS' DMV photograph and confirmed it matches the individual pictured in Figures 1, 3, 4, 5, 7, 8, and 11.

As further discussed below, A. BUSTOS and B. BUSTOS traveled together to Washington D.C. and entered the Capitol building. They are assessed to be related based on their common last name, shared address, and both having a phone number subscribed under one cell phone plan.

Following January 6, 2021, your affiant reviewed information provided by American Airlines, which confirmed that A. BUSTOS and B. BUSTOS traveled to Washington D.C. prior to January 6, 2021. The information revealed A. BUSTOS and B. BUSTOS traveled together from California to Washington D.C. on January 3, 2021 and returned to California from Washington D.C. on January 8, 2021.

According to video footage, on January 6, 2021, A. BUSTOS and B. BUSTOS were on U.S. Capitol grounds at approximately 2:04 pm. As depicted below in Figure 12, A. BUSTOS (right) and B. BUSTOS (left) were captured walking together near the North Barricade Access.



Figure 12

According to video footage, on January 6, 2021, A. BUSTOS entered the U.S. Capitol at approximately 2:27 pm. As depicted below in Figure 13, A. BUSTOS entered through the Columbus Door on the eastern side of the building, wearing a black jacket, dark pants, and blue “TRUMP” beanie. After entering the U.S. Capitol, A. BUSTOS proceeded to the Rotunda. As depicted below in Figure 14, A. BUSTOS was identifiable in the crowd due to the small number of occupants and his outfit that consisted of a blue “TRUMP” beanie, black jacket, dark pants, and white shoes. Several minutes later, as depicted below Figure 15, A. BUSTOS exited the Rotunda and remained outside Columbus Door interior.

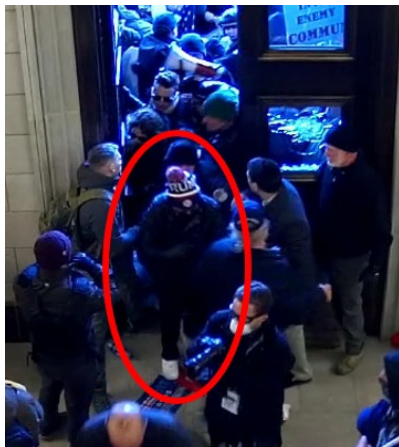


Figure 13



Figure 14

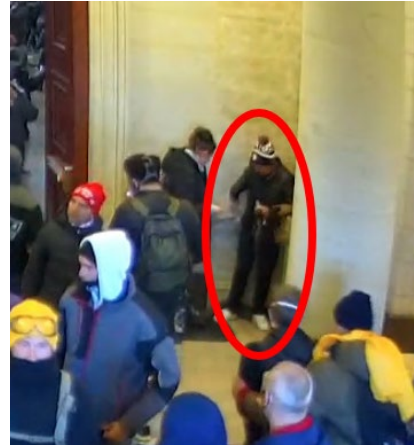


Figure 15

At approximately 2:40 pm, B. BUSTOS entered the U.S. Capitol. As depicted below in Figure 16, B. BUSTOS entered through the Columbus Door on the eastern side of the building, carrying an American flag. After entering the U.S. Capitol, B. BUSTOS proceeded to the Rotunda. As depicted below in Figure 17, while inside the Rotunda, BUSTOS was identifiable in the crowd due to the American flag he carried.



Figure 16

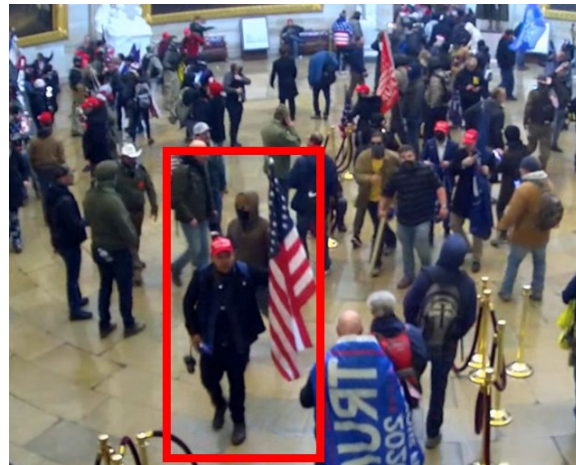


Figure 17

At approximately 2:50 pm, B. BUSTOS exited the Rotunda and met with A. BUSTOS near the Rotunda door interior, depicted in Figure 15. According to video footage depicted in Figure 16, A. BUSTOS and B. BUSTOS exited the U.S. Capitol together at approximately 2:51 pm.



Figure 18

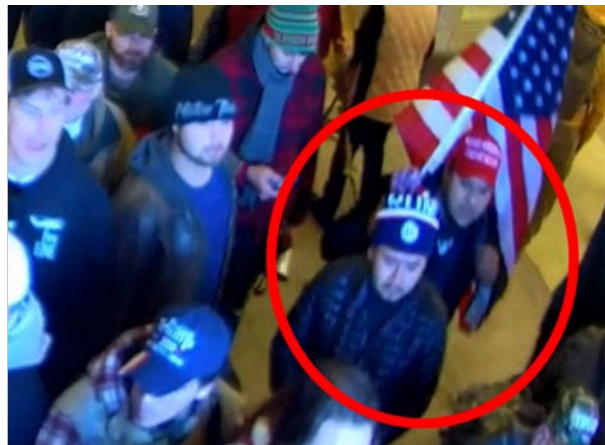


Figure 19

Your affiant learned through public records that the phone number associated with B. BUSTOS ends in 7914 (“7914 Number”). Your affiant confirmed this information with the phone provider, Sprint Corporation (“Sprint”). According to the records provided by Sprint, the subscriber to the 7914 Number was B. BUSTOS. The address associated with the Sprint account was an address in Long Beach, CA, which is the same address listed on B. BUSTOS’ California driver’s license.

Public records indicated the phone number associated with A. BUSTOS ended in 0538 (“0538 Number”). According to records provided by Sprint, the phone provider, 0538 Number was subscribed to B. BUSTOS with the same Long Beach, CA address detailed above.

A review of call reports provided by Sprint identified 7914 Number attempted to call 0538 Number approximately five times on January 6, 2021. Of these calls included four call attempts around the same time B. BUSTOS was inside the Rotunda. According to the call reports, 7914 Number attempted two phone calls to 0538 Number at approximately 2:42 pm. Moreover, 7914 Number attempted two additional calls to 0538 Number at approximately 2:47 pm. According to video footage, B. BUSTOS was observed using his cell phone. As depicted in Figure 20, B. BUSTOS was observed using his phone around 2:42 pm. Further, as depicted in Figure 21, B. BUSTOS was observed using his phone around 2:47 pm.



Figure 20



Figure 21

Since April 2021, on seven separate occasions, your affiant has observed one vehicle registered to B. BUSTOS parked outside the Long Beach, CA address. Your affiant confirmed that this vehicle was registered to B. BUSTOS by reviewing California DMV records for vehicles to B. BUSTOS.

On May 24, 2021, your affiant witnessed an adult male matching the physical description of B. BUSTOS seated in a vehicle parked in front of the Long Beach address. The vehicle was the same vehicle detailed above and is registered to B. BUSTOS.

On June 17, 2021, your affiant interviewed an employee at a restaurant that employed B. BUSTOS in 2019. When the employee was shown the picture below in Figure 22, the employee advised the person in the red hat (right) was “Bryan.” The employee did not remember Bryan’s last name, but remembered Bryan lived in Long Beach, CA or Redondo Beach, CA.



Figure 22

Based on the foregoing, your affiant submits there is probable cause to believe that A. BUSTOS and B. BUSTOS violated 18 U.S.C. §§ 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that A. BUSTOS and B. BUSTOS violated 40 U.S.C. §§ 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of

Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Justin Smet
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 29th day of September 2021.

ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE